

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GARCIA A. FRANKLIN,

Petitioner,

V.

A. NEIL CLARK,

## Respondent.

CASE NO. C08-1117-RSM-JPD

## REPORT AND RECOMMENDATION

14 On July 24, 2008, petitioner Garcia A. Franklin, proceeding pro se, filed a Petition for  
15 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his detention by the U.S.  
16 Immigration and Customs Enforcement (“ICE”) at the Northwest Detention Center in Tacoma,  
17 Washington. (Dkt. 7). On August 29, 2008, however, respondent filed a Return Memorandum  
18 and Motion to Dismiss, indicating that on August 19, 2008, petitioner was released from ICE  
19 custody pursuant to an Order of Supervision. (Dkt. 13). Respondent asserts that because  
20 petitioner is no longer detained by ICE, his habeas petition should be dismissed as moot. *Id.*

For a federal court to have jurisdiction, “an actual controversy must exist at all stages of the litigation.” *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9<sup>th</sup> Cir. 2002). “When a controversy no longer exists, the case is moot.” *Id.* Because petitioner is no longer

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1 detained by ICE, the Court finds that petitioner's habeas petition should be dismissed as moot.  
2 *See, e.g., Cooney v. Edwards*, 971 F.2d 345, 346 (9<sup>th</sup> Cir. 1992) (holding that the District Court  
3 properly dismissed plaintiff's claims that had become either moot or unripe). Accordingly, I  
4 recommend that respondent's motion to dismiss be granted, and that this action be dismissed  
5 with prejudice. A proposed Order accompanies this Report and Recommendation.

6 DATED this 2nd day of September, 2008.

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8 JAMES P. DONOHUE  
9 United States Magistrate Judge

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